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## United States Senate

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

WASHINGTON, DC 20510-6175

August 1, 2006

The Honorable George W. Bush  
President of the United States  
The White House  
1600 Pennsylvania Avenue, N.W.  
Washington, D.C.

Dear President Bush:

We are writing to you regarding your wetlands initiative that you announced on April 22, 2004. At that time, you announced a program establishing what you termed an "aggressive new national goal – moving beyond a policy of "no net loss" of wetlands to have an overall increase of wetlands in America each year." (White House Fact Sheet dated 4-22-04.) Your Administration also stated that the goal is "to create, improve, and protect at least three million wetland acres over the next five years in order to increase overall wetland acres and quality."

In April 2006, the Council on Environmental Quality released a report reiterating the goal of "attaining an overall increase in the amount and quality of wetlands in America." (Transmittal letter for "Conserving America's Wetlands 2006" to Congress from CEQ Chairman James Connaughton, *emphasis added*.)

On June 19, 2006, after the release of the Supreme Court decision in Rapanos/Carabell, the Environmental Protection Agency Assistant Administrator for Water stated, "We're disappointed by today's decisions but remain fully committed to advancing the President's bold clean water and cooperative conservation goals, including his challenge to move beyond no net loss to an overall gain goal." (Greenwire, June 19, 2006, *emphasis added*.)

In order to achieve the goal of an "overall increase" of wetlands per year, it will be necessary to ensure that more wetlands are created per year than are destroyed, regardless of how many acres are created, improved or protected. We are extremely concerned that the reality of this initiative, coupled with the wetlands policy of your Administration, does not reflect stated goal of "an overall increase of wetlands in America each year."

First and foremost, we continue to believe that the most effective means of protecting wetlands in this nation is by maintaining the protections that have existed under the Clean Water Act since 1972. The guidance you issued on wetlands policy related to the SWANCC decision removes those protections from millions of acres of wetlands throughout the country. We urge you to rescind this guidance immediately, reinstating full protection for wetlands in America.

Second, with regard to the specifics of your wetlands initiative announced in April 2004, you identify three specific goals of the program: (1) to restore and create at least 1 million acres of wetlands; (2) to improve the quality of at least 1 million acres of wetlands; and (3) to protect at least 1 million acres of wetlands. Our understanding is that you are measuring progress toward these specific goals with a tracking system that will measure the increase in wetlands acres or improvements in quality every 6 months beginning on April 22, 2004. Data is reported by agencies on a program basis. For example, the U.S. Department of Agriculture is expected to report the number of acres enrolled in the Wetlands Reserve Program every six months beginning on April 22, 2004. Please provide a detailed description of the agencies and individual programs that are reported in this system. In addition, please provide a description of the definitions you are using for the terms "restore", "create", "improve", and "protect" and how these differ from traditional definitions, as well as the results of each report since April 2004.

Third, we have been informed that an interagency agreement has been established that will preclude counting wetlands gains required as part of mitigation in an Army Corps of Engineers section 404 permit as a wetland gain under the new tracking system. Please provide a copy of this agreement and describe the means by which you will ensure that it is upheld.

Fourth, to actually measure whether the goal of an "overall increase of wetlands in America each year" is actually met, it is necessary to measure wetlands gains versus wetlands losses. Based on the information we have received, it appears that the only data point you plan to use to determine if the goal of "an overall increase" is met is the wetland gain data reported by agencies in the new tracking system. It is unclear how you can measure your achievement of a goal of "an overall increase of wetlands in America each year" if you are only going to count wetlands gains and ignore wetlands losses. In 2006, you announced that there are 588,000 acres of wetlands that did not exist in 2004, that the quality of 563,000 acres of wetlands is improved since 2004, and 646,000 acres of existing wetlands have been protected. Missing from this report is the number of acres of wetlands that were destroyed or compromised during this same period – a data point that is necessary to determine if an "overall increase" is actually achieved. Please provide your estimate of the number of acres of wetlands that were destroyed or compromised between 2004 and 2006.

We urge you to remove this nation's biggest obstacle to wetlands protection today by rescinding the guidance you issued which eliminates protections for millions of acres of wetlands. In addition, we urge you to revise the measures that you plan to use to evaluate progress in protecting wetlands to reflect the reality – wetlands are destroyed, and wetlands are created. It is in the balance of that equation that our nation's progress in protecting wetlands should be measured. Thank you for your prompt response to these questions.

Sincerely,



Nina Feigold





Hillary Rodham Clinton